

**STATE OF MICHIGAN
IN THE 4th JUDICIAL CIRCUIT COURT COUNTY OF JACKSON
CRIMINAL DIVISION**

**PEOPLE OF THE STATE OF MICHIGAN
Plaintiff,**

**Case No. 20-003173-FH
Hon. Thomas Wilson**

V

**PETE MUSICO
Defendant.**

MICHIGAN ATTORNEY GENERAL'S OFFICE
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JACKSON COUNTY PUBLIC
DEFENDER
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**DEFENDANT'S MOTION TO
QUASH THE BIND OVER OF THE COMPLAINT**

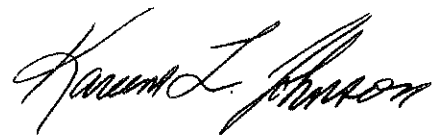
Now, here comes the defendant, Pete Musico, by and through his attorney, Kareem L. Johnson, and states the following to this honorable Court:

1. Mr. Musico was charged in a multi-count complaint and had a preliminary examination scheduled in the Twelfth District Court before the Honorable Michael J Klaeren on March 3, 2021.
2. After the preliminary examination, Mr. Musico was bound over on one count of Material Support of Terrorism, Gang-Related Felonies, and Felony Firearm.

3. The primary function of a preliminary examination is to determine whether a crime has been committed and whether there is probable cause to believe that the defendant committed the crime.ⁱ
4. The District Judge must bind the defendant over for trial “when the prosecutor presents competent evidence constituting probable cause to believe (1) that a felony was committed and (2) the defendant committed the felony.”ⁱⁱ
5. The District Court abused its discretion when it bound Mr. Musico over on Material Support of Terrorism for the following reasons:
 - The defendant’s did not connect its members to Adam Fox, the CHS did;
 - The defendant’s had no expertise, it was the CHS that lead the training;
 - There was nothing material that happened and Munith, Michigan location;
 - Defendants can't be held criminally liable for conduct former members of the group did in which defendants lack knowledge of.
6. The final two counts can’t survive without the Material Support of Terrorism charge.

Wherefore, we humbly ask this Court to hold that the bind-over of defendant's was an abuse of discretion and to dismiss the Information.

Respectfully Submitted,



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ⁱ People v Perkins, 468 Mich. 448, 452 (2003)

ⁱⁱ People v. Northey, 231 Mich.App. 568, 574 (1998)

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**BRIEF IN SUPPORT OF
DEFENDANT'S MOTION TO
QUASH THE BIND OVER OF THE COMPLAINT**

Now, here comes the defendant, Pete Musico, by and through his attorney, Kareem L. Johnson, and states the following to this honorable Court:

FACTS

In March of 2020, Special Agent Impala received a tip from law enforcement in Genesee County about a group named the Wolverine Watchmen. The tip referenced a person known as Dan and his concerns that the group was planning to target law enforcement officers. Special Agent Impala met with the source of the tip, Dan, and read screenshots from his cellphone. After reading the screengrabs, Special Agent Impala makes a request to investigate individual

members of the group Wolverine Watchmen and then the group as a whole. Special Agent then begins a historical review of the social media activity of the Wolverine Watchmen.

In November of 2019, Joe Morrison started the Wolverine Watchmen. Joe Morrison had just been sentenced on a gun charge. Furthermore, police killings of unarmed citizens had reached a height in America. A Facebook group was formed, and they began to recruit members from the internet. The group administrators vetted the potential new member using a variety of criteria. Pete Musico was not an administrator, nor did he vet any members. Shortly after the group was founded, they begin military-style training in Munith, Michigan. After the seventh training Special Agent Impala recruited Dan to re-connect with the group and to act as a confidential informant for the F.B.I. Dan agreed.

Dan was asked to lead training after his first day. He was subsequently promoted to the number two person in the Wolverine Watchmen command structure. Dan had been previously instructed by Special Agent Impala not to train the Wolverine Watchmen on any advanced combat techniques. Before the training was led by Dan, the Wolverine Watchmen would imitate training that they saw on YouTube videos. Pete Musico attended the training in Munith that were led by Dan. Pete Musico did not lead any training. During the months of March and April of 2020, pandemic shutdown orders and police killings drove the chats and Facebook posts to become more political. Several members of the Wolverine Watchmen became concerned with Pete Musico's statements and some member's lack of activity. They decided to create separate chat groups and consciously decided to exclude Pete Music. This was done because of his crazy online post and a belief he was detrimental to the group. Dan reported to Special Agent Impala that Pete Musico was intentionally trying to provoke a response from law enforcement for recruitment purposes.

In April, frustration over shutdown orders in the group began a constant complaint. A decision was made to attend a protest. In the chat groups, very aggressive language was used to describe the actions to be taken at the protest. This caused concern with Dan and Special Agent Impala. The members of the Wolverine Watchmen attended the protest and complied with all rules and regulations. They received national attention from the media outlets that were there. They committed no crimes while present but went back to the internet and engaged in more tough talk. The Wolverine Watchmen attended more protests at the state capital to support various causes. The public protest caused a rift within the Wolverine Watchmen. Some members did not want the attention that Pete Musico was generating at the protest.

In May, the QRF group began to attend Black Lives Matter protests to protect protestors. Dan went with the QRF to at least one of the protests. Despite the talk, the QRF took no action at any of the protests. During that time, the Wolverine Watchmen were still training at the Munith, Michigan location. The talk at the trainings continued to get more aggressive. During the month of May, members broke away from what was referred to as the Main Chat and created the Vetting, QRF, Bonfire, and FAFO chat groups. Pete Musico was excluded from all chat groups except the Main Chat.

In June of 2020, the Wolverine Watchmen were still training and attending protests. The group gets contacted by an individual named Adam Fox. The group is skeptical of Adam Fox but agreed to meet with him at a June protest at the Capital. After meeting Adam Fox, the Wolverine Watchmen were invited to Grand Rapids to discuss potential plans. Joe Morrison asked members of the Wolverine Watchmen to attend. The members of the Wolverine Watchmen that attended the meeting are all in the QRF Chat. Pete Musico does not attend, nor was he requested to attend. At the Grand Rapids meeting, no member of the Wolverine

Watchmen agreed to do anything with Adam Fox. At some point later in June, Adam Fox and Joe Morrison speak about Adam Fox coming to Munith to train. However, Joe Morrison never invites Adam Fox to his property. There is a second phone call between Dan and Adam Fox with Special Agent Impala and Chambers in the background. During this conversation, Dan invites Adam Fox to the Munith property to train. Joe Morrison does allow Adam Fox to attend the training as a V.I.P. Adam Fox did not train with them, and the Wolverine Watchmen did not do anything different at this training that they did at the previous trainings. Pete Musico is there training and addresses the group. Pete Musico makes an unrecorded statement about the group being ready for real things and instructing members to leave if they are not all the way in. After that training, several members left the group. Pete Musico went back to Alabama in early July.

In July, the members of the QRF chat began to train in Luther, Michigan, at the home of Ty Garbin. In a chat, the idea of kidnapping the Governor is discussed. Pete Musico is not part of that conversation nor, does he train in Luther, Michigan. The training in Luther, Michigan, is the first time there is training after an agreement to commit a particular crime. Adam Fox sets up another chat on an Application called Threema. The members of the QRF all join the Threema Chat. Pete Musico is not invited to the Threema Chat. In that chat, code words are used and trainings scheduled. In that chat, members discussed what supplies are needed and what training is needed to achieve the kidnapping goal. Under the leadership of Adam Fox and Dan, the Threema group begins to train in Wisconsin and Luther, Michigan, for a kidnapping mission of the Governor.

Under the direction of Adam Fox and Dan, the Threema group continues to train, buy supplies and eventually do reconnaissance mission of the Governor's vacation home. All of

these operations began from the Luther, Michigan location and did not involve Pete Musico. In September, Pete Musico is arrested and charged.

MATERIAL SUPPORT OF TERRORISM

Mr. Musico did not provide any material support for any act of terrorism. Likewise, the Wolverine Watchmen did not provide any material support. There are zero binding cases that discuss MCL 750.543k (1) (b). It is the position of the defense that this Court is hearing this matter as a first impression and is not bound by any other rulings. The issue before the Court does not require any complex legal analysis. The Court should simply look at the plan definition of material. In the context as used in the statute, material means: important; essential; relevant. There is no evidence that Mr. Musico provided those things to any terrorist group or person.

Mr. Musico did not create the Wolverine Watchmen social media accounts. He was not a part of the vetting process for new members. He did not own the original training location. Although he participated in the training, he did not lead or instruct anyone at the training. He had no combat skills, training, or experience. When Adam Fox first arrived at the Munith training, Mr. Musico did not do anything different than he had done before. There was no training specific or relevant to any idea of terrorism that Adam Fox had. Furthermore, once Adam Fox was introduced to the group, he convinced the QRF member to join his Threema chat. Thus, they began communicating in a forum not associated with the Wolverine Watchmen. Mr. Musico was not in that chat group. Furthermore, they moved training locations from Munith, Michigan, to Luther, Michigan, to a site the Wolverine Watchmen had never trained. The Luther Location was material. It was the location where the training specific to kidnapping the Governor took place. That gang was the gang that engaged in surveillance of the Governor. They did explosives training there. Lastly, the Wolverine Watchmen did not provide individuals

for this plan. Adam Fox poached the group of the individuals he knew would consent to his plan.

**MR. MUSICO DID NOT HAVE SPECIFIC INTENT TO
COMMIT ANY OFFENSE**

Material Support of Terrorism requires that a defendant intends to help another commit an act of terrorism as defined by Michigan law.ⁱ The major issue in determining whether the charge of Material Support is proper is wherein the "chronology –leading-to-terrorist-offenses the conduct occurs."ⁱⁱ The Court should also look specifically to the "the danger that he or she posed as evidenced by the means rea and the conduct engaged in on the way toward completion of the crime."ⁱⁱⁱ In our case, Mr. Music joined a group that was formed for training purposes for a pending civil war. The training was made to sharpen his skills with a firearm. He did not train anyone on anything. The District Court bind over was predicated upon behavior that occurred too far in advance of any terrorist activity. Furthermore, because Mr. Musico was not informed of any actual plan of terrorism, he could not support one.

The District Court abused its discretion when it held that Mr. Musico provided personnel to the Adam Fox organization. Norman Abrams did a study of "Travel-to-Syria/ISIS Cases" from 2013-2018.^{iv} He found that in the Federal Courts prosecutions based on theories that an individual that provides personnel (including themselves) have been sustained. However, in this case, the Court alleges that Mr. Musico somehow provided other people. The Michigan statute does not mention personnel. Mr. Musico could not provide people to Adam Fox that is a legal impossibility. Lastly, the record is clear that the member of the Wolverine Watchmen that left did not tell the others in the group. There were specific instructions from Adam Fox not to tell the Wolverine Watchmen details of what the group was doing. Therefore, Mr. Musico could not provide personnel.

PROSECUTION FOR STATEMENTS
MADE WITHOUT CRIMINAL ACTION VIOLATE DUE
PROCESS

Mr. Musico was alleged to have made statements while training in Munith, Michigan. These statements were made in June prior to his July departure from Michigan. The Court considered these comments as part of its decision to bind over Mr. Musico. The Court has criminalized the thoughts of Mr. Musico even though he had no specific intent to commit a specific crime. The prosecution should not be allowed to prosecute people for statements that cause no harm or threaten harm. "In a free society, the government should not be allowed to impose criminal punishment for thoughts alone; also that reliance only on statements of the accused without corroboration of acts entails too many risks of unreliability."^v The trainings that Mr. Musico engaged in were in the early summer before any criminal plans materialized. This Court should be careful of allowing a prosecution based upon acts in which "criminal intent is too remote from the commission of any harm; or that, without any conduct in furtherance thereof, there is insufficient proof of the firmness of the intent or even the willingness to follow through on it..."^{vi} Mr. Musico went to Alabama after the last June training. From that state, he could not be material to anything occurring in Michigan, as a matter of law.

CONCLUSION

We humbly ask this Court to hold a hearing and dismiss the remaining charges against Mr. Musico.

Respectfully Submitted,



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ⁱ MCL 750.543k

ⁱⁱ 37 Quinnipiac L. Rev. 199

ⁱⁱⁱ Id quoting Colum. L. Rev. 571, 587 (1961)

^{iv} 37 Quinnipiac L. Rev. 199 at 233-238

^v 37 Quinnipac L. Rev. 199 at 246

^{vi} Id at 245